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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,691	12/30/2003	Ivan B. Schrodt	KCX-730 (19566)	1999
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DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER	
			IWARERE, OLUSEYE	
			ART UNIT	PAPER NUMBER
			3687	
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			12/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/748,691

Applicant(s)

SCHRODT ET AL.

Examiner

OLUSEYE IWARERE

Art Unit

3687

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 13-28, 51 and 52 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 and 29-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-28, 51 and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to the correspondence received on September 29, 2008. Claims 1 – 12 and 29 – 50 have been withdrawn in response to a restriction requirement. Claims 13 – 28, 51 and 52, as originally filed, are currently pending and have been considered below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 13 – 16 and 24 – 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Lucas (6,996,538).**

As per claim 13, Lucas discloses a method for managing products in a supply chain, said method comprising:

associating RFID smart tags with products, wherein each distinct product is associated with at least one smart tag, the smart tags containing product information regarding their respective product (col. 3, lines 34 – 44; discusses rfid smart tags);

storing at least one said distinct product in a first inventory location (col. 3, lines 3 – 18; discuss storing product inventory information);

providing at least one RFID STR within communication distance of said at least one smart tag (fig. 5 depicts an rfid reader);

providing a customer interface (fig. 5 depicts a customer interface);

providing a first computer configured to communicate with said at least one RFID STR and said customer interface (fig. 5 depicts a computer to communicate with the rfid reader);

configuring said customer interface to receive a customer request for a desired product and to transfer said customer request to at least one of said first computer and said at least one RFID STR (col. 4, lines 19 – 29; discusses receiving supply requests);

configuring at least one of said first computer and said at least one RFID STR to initiate a transfer of said product information, for the desired product, to said customer interface upon receiving said customer request (col. 4, lines 30 – 36; discusses file transfer protocol); and

wherein said product information comprises information related to out-of-stock events when said desired product is determined to be out-of-stock in said first inventory location (col. 4, lines 6 – 18; discuss threshold levels and stock levels).

As per claim 14, Lucas discloses, wherein said customer request is at least one member of the group consisting of:

(1) a customer request generated by the customer manually entering the request into the customer interface; (3) a customer request generated by speaking into the customer interface; (4) a customer request that is transmitted from a portable electronic device to said customer interface; and (2) a customer request generated over the Internet and stored in a database (col. 4, lines 6 – 18; discuss automatically requesting new supplies from server);

As per claim 15, Lucas further discloses comprising the step of providing a second inventory location (col. 4, lines 52 – 57; discuss a second inventory location as the server);

As per claim 16, Lucas discloses, wherein said first inventory location is a customer display inventory location and said second inventory location is a retailer storage inventory location (col. 4, lines 52 – 57; discusses the customer inventory system 130 as the first and the server 100 as the second).

As per claim 24, Lucas discloses, further comprising the step of determining when said desired product is not sold by the retailer (col. 4, lines 19 – 29; discuss determining quantity available) and transferring a product-not-sold message to said customer interface (col. 4, lines 30 – 36 discuss communication to interface).

As per claim 25, Lucas discloses, further comprising the step configuring said first computer to locate any alternative products sold by the retailer (col. 4, lines 6 – 18; discuss alternative products), to access at least one data source containing alternative product information, and to initiate a transfer of at least part of said alternative product information to said customer interface (col. 4, lines 19 – 29 discuss accessing information initiating the transfer).

As per claim 26, Lucas discloses, wherein said at least one data source containing alternative product information is at least one of (a) a database and (b) a RFID STR device (col. 4, lines 19 – 29; discusses distributor providing information about alternative products which is understood as contained in a database).

As per claim 51, further comprising the steps of:

- connecting said first computer to a public computer network (col. 11 discusses);
- using said first computer to monitor said public computer network for predetermined predictive data that can be used to predict changes in consumer buying habits (col. 11, lines 28 – 38 discuss predictive data);
- using said first computer to acquire said predictive data (col. 11, lines 28 – 38 discuss predictive data); and
- using said first computer to analyze said predictive data to predict potential out-of-stock conditions based on said acquired predictive data (col. 11, lines 28 – 38 discusses frequency of used goods which would lead to out of stock conditions).

As per claim 52, further comprising the steps of:

before transferring said alternative product information to said customer interface, using said first computer to determine whether more than one alternative product is in stock from more than one respective source of alternative product (col. 4, lines 6 – 18; discusses alternate products);

interface, using said first computer to conduct an electronic auction between more than one respective source of alternative product (col. 2, lines 7 – 19 discuss auctioning);

before transferring said alternative product information to said customer interface, using said first computer to determine which respective source of alternative product won said electronic auction (col. 2, lines 7 – 19 discuss auctioning); and

using said first computer transfer to said customer interface said alternative product information of said respective source of alternative product that won said electronic auction (col. 2, lines 7 – 19 discuss auctioning).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17 – 21, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lucas (6,996,538) in view of Treyz (6,587,835).

As per claims 17 – 21, 27 and 28, Lucas further discloses, comprising the step of configuring said first computer to determine when an substitute product to the desired product is sold by the retailer, and if so, performing the following steps:

requesting said at least one RFID STR to scan said first inventory location and said second inventory location to obtain a substitute product inventory count and a desired product inventory count (col. 4, lines 6 – 18; discusses alternate products);

transferring to said customer interface substitute product information (col. 4, lines 30 – 35; discuss communication and transferring) when said substitute product inventory count minus said desired product inventory count exceeds a predefined value (col. 4, lines 6 – 18; discusses alternate products and a threshold value).

wherein said substitute product is one of (a) the same brand of product as the desired product and the same type of product as the desired product but having a different expiration date than the desired product, and (b) the same type of product as the desired product but being a different brand of product from the desired product (col. 4, lines 6 – 18; discuss alternative brands).

further comprising the step of configuring said first computer to request said at least one RFID STR to scan said first inventory location to determine if said desired product is available in said first inventory location and to perform the following steps when said desired product is not in said first inventory location:

issue a said first inventory location restock request (col. 4, lines 6 – 19; discusses a restock request);

transfer a product being restocked message to said customer interface (col. 10, lines 46 – 52 discusses restocking);

transfer a desired product restock time estimate to said customer interface (col. 4, lines 19 – 29 discuss delivery time); and

further comprising the step of configuring said first computer to perform any combination of the following first inventory location restock steps:

to determine when said desired product restock time estimate has expired without said desired product being restocked (col. 12, lines 21 – 29; discusses real-time inventory information);

to establish a new desired product restock time estimate and to transfer said new desired product restock time estimate to said customer interface;

to transfer to said customer interface a wait-to-purchase incentive; and

to repeat said first inventory location restock steps until the occurrence of at least one event from the group of events consisting of (1) said desired product is restocked;

(2) customer cancels restock request; (3) retailer cancels restock request; and (4) restock request automatically cancels.

further comprising the steps of configuring said first computer to determine when said desired product is out of stock and to transfer an out of stock message to said customer interface (col. 4, lines 6 – 18; discusses out of stock through threshold levels)

further comprising the step of configuring said first computer to determine when a substitute product to the desired product is sold by the retailer, and if so, performing the following steps:

requesting said at least one RFID STR to scan said first inventory location to obtain a substitute product inventory count and a desired product inventory count (col. 4, lines 19 – 29; discusses obtaining the available quantity of substitute inventory);

transferring to said customer interface substitute product information (col. 4, lines 30 – 35; discuss communication and transferring) when said substitute product inventory count minus said desired product inventory count exceeds a predefined value (col. 4, lines 6 – 19 discuss a minimum threshold value).

However, Lucas fails to explicitly disclose a substitute-product-purchase incentive, a wait-to-purchase incentive, a come-back-to-purchase incentive and an alternative-product-purchase incentive.

Treyz teaches a shopping assistance with handheld computing device, with the features of a substitute-product-purchase incentive (figs. 96 & 98 depict and col. 27, lines 20 – 45 discuss coupons and discounts as purchase incentives), a wait-to-purchase incentive (figs. 96 & 98 depict and col. 27, lines 20 – 45 discuss coupons and discounts as purchase incentives), a come-back-to-purchase incentive (figs. 96 & 98 depict and col. 27, lines 20 – 45 discuss coupons and discounts as purchase incentives) and an alternative-product-purchase incentive (col. 50, lines 38 – 47 discuss purchasing incentives for alternative products such as many types of cereal).

From this teaching of Treys, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventory control system and method of Lucas to include the substitute-product-purchase incentive, wait-to-purchase incentive, come-back-to-purchase incentive and alternative-product-purchase incentive, taught by Treyz, in order to provide promotional material to the customer.

Response to Arguments

6. Applicant's arguments filed 08/27/2009 have been fully considered but they are not persuasive.

Applicant argues, "Lucas fails to explain what is represented by the graphic designated 501 or the graphic designated 502. Indeed, by stating that the Lucas

invention operates without any direct user interaction, it is not surprising that Lucas would lack a customer interface.”

However, Col. 6 has several references to customer interfaces, therefore the Examiner respectfully disagrees.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **OLUSEYE IWARERE** whose telephone number is (571)270-5112. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/
Supervisory Patent Examiner, Art
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